

Hon. Carmine Cornelio
Presiding Arbitration Judge
Pima County Superior Court
110 W. Congress
Tucson, AZ 85701

**IN THE SUPREME COURT
STATE OF ARIZONA**

PETITION TO AMEND THE RULES)
OF THE SUPREME COURT, SECTION))
V, REGULATION OF THE PRACTICE)
OF LAW, RULE 45)
_____)

Supreme Court No. R-08-0003
**Comments of the State Bar of
Arizona Re: Petition to Amend
Rule 45, Arizona Rules of
the Supreme Court**

The undersigned, Judge Carmine Cornelio, pursuant to Rule 28, Arizona Rules of the Supreme Court, hereby files his comments to the Rule 28 Petition to Amend the Rules of the Supreme Court, Section V, Rule 45, filed on January 9, 2008.

I was a member of the Supreme Court Committee on Arbitration that proposed the rule change to provide a maximum of two CLE credit hours for Arbitrators who conducted a hearing. The CLE credit was to be in lieu of payment.

I am also the Presiding Arbitration Judge for Pima County Superior Court.

The State Bar of Arizona, in its comments opposing the rule change, express a concern regarding the opening of “flood gates” to claim free CLE. In doing so, the State Bar notes that many members spend significant time on peer review, rule revisions, creating ethics opinions, etc. These services are truly voluntary (not mandatory service) and are often in areas in which members have a self interest and area of specialty.

It was not the intent of the Committee to diminish the value of volunteer service. I believe, as did the Committee, that service as an Arbitrator is unique and truly educational.

What better way, for a practicing attorney, to understand and learn how to effectively prepare, present, brief and argue a case than for that attorney to sit in judgment as an Arbitrator (acting as both judge and jury)?

In my role as Presiding Arbitration Judge, I have the obligation to review and approve submissions for payment of the statutory fee. In doing so, I review their Notice of Decisions and Awards. I am struck by the time, effort, research, thoughtfulness and work that Arbitrators often put into their work and decisions.

Arbitration is a form of conflict resolution in A.D.R. Its purpose is to provide a speedy, efficient and less costly manner of resolution. This is best accomplished when the parties and

their counsel are convinced that their dispute was fully and thoughtfully heard, considered and researched. Service as an Arbitrator is mandatory and the statutory compensation minimal. While I believe that virtually all Arbitrators view their service “community service,” the added benefit of CLE credit should cause even those few that are recalcitrant in their duties to provide the best type of hearing that one could reasonably expect.

The State Bar comments appear to suggest that the MCLE regulations for “self study” can be used by Arbitrators in obtaining CLE credit. If that were the case, the rule change would not be necessary (nor would there be an opposition by the State Bar).

The regulation cited by the State Bar, and its comments, defines “self study as one ‘undertaken by an active member for the member’s own benefit’ . . . (Emphasis added).”

The work by an Arbitrator is not undertaken for the members’ own benefit, but rather that of the parties, the community, and the courts. Perhaps the way to best address and satisfy the State Bar’s comment is to clarify that the two hours of CLE credit for an Arbitrator shall be applied to the five hour maximum of self study.

I submit that the proposed rule change is an appropriate gesture and acknowledgment of the work, effort, learning and education of Arbitrators. It is for this reason that I have filed this comment in support of the proposed rule and have suggested a modification that considers the State Bar’s comment.

RESPECTFULLY SUBMITTED this _____ day of May, 2008.

HON. CARMINE CORNELIO